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OFB

18 March 1949

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Office of the General Counsel

OGC HAS REVIEWED.

1. The inclosed file with correspondence and dispatches has been reviewed by this office and the problem of reimbursement subject to overweight has been reconsidered.

2. Please refer to the previous memoranda from this office dated 20 October 1948 and 16 November 1948 regarding Executive Order 9805 as well as the memorandum dated 3 December 1948 on "Weight Allowances Under the Foreign Service Regulations." Prior to 1 January 1948 the restrictions on the weight of personal property and effects shipped overseas by an employee of this agency were governed by Executive Order 9805. Roughly, the limits outlined were 8,750 lbs. for crated property and 7,000 lbs. for uncrated property, in the case of a married employee with an immediate family. The more generous limitations of the Foreign Service Travel Regulations were made applicable to Foreign Service designees traveling on or after 1 January 1948. In the present case, travel was completed by the employee in September 1947 and his personal property was shipped on 18 December 1947. We, therefore, cannot apply the limitations of the Foreign Service Travel Regulations, but are obligated to observe the restrictions indicated in Executive Order 9805. In regard to the use of an alternative cubic measurement in lieu of weight, please refer to the opinion of the Comptroller General in 28 Comp. Gen. 41. It is pointed out (as quoted in the Syllabus) that the maximum weight limitation of 8,750 lbs. must be applied to the actual measure of weight rather than on a cubic measurement basis except where the cubic footage is known and the actual weight is unobtainable. In the present case, the actual weight has been clearly ascertained and use of an alternative cubic measurement basis is not permissible.

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3. For the reasons given above, I regret that the [REDACTED] (names) should be advised that we believe the employee is still liable for the charged applicable to any weight in excess of 8,750 lbs. In passing, it would seem that the employee might make a personal objection to the [REDACTED] if he feels that their action was not reasonable or necessary in using a lift-van weighing 3,720 to ship only 5,980 lbs. of property.

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